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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,730	08/31/2000	William B. Boyle	K35A0665	3613

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EXAMINER

ONUAKU, CHRISTOPHER O

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 06/12/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No. 09/652,730	Applicant(s) Boyle et al
Examiner Christopher O. Onuaku	Art Unit 2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Apr 29, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

a) The period for reply expires 3 months from the mailing date of the final rejection.

b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____ . Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. The proposed amendment(s) will not be entered because:

- (a) they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) they raise the issue of new matter (see NOTE below);
- (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. Applicant's reply has overcome the following rejection(s):

4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because:
(See attached)

6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-19 and 21-30

Claim(s) withdrawn from consideration: _____

8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ .

10. Other: _____

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Response to Arguments

1. Applicant's arguments filed 4/29/03 have been fully considered but they are not persuasive.

Applicant argues that the processor of Schein does not satisfy the limitation of claim 1 in which the microprocessor is in the digital video recorder, and that the examiner has not considered that claim 1 discloses a digital video recorder separate but connectable to a STB. Examiner disagrees.

Fig.1 of Schein discloses the claimed limitations of claim 1, which includes a microprocessor (see processor 16), recorder interface which is inherent in the digital video recorder of Fig.1 since in the digital video recorder the recorder is connectable to the VCR 36 which includes an auxiliary interface located in the VCR 36. It is further noted that television 32 can be combined with VCR 36 to form a PCTV, and inherently the interface means in VCR 36 connects to the interface means in the television 32 in order for the television 32 and VCR 36 to efficiently communicate, and the interface means in the PCTV the connects with the interface means in the computer 12 which includes the processor 16.

It is pertinent to point out that the argument that because claim 1 discloses a digital video recorder separate but connectable to a STB and that Schein instead discloses a STB within a

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digital video recorder is not acceptable since both connecting format can efficiently perform similar functions. Moreover, it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893), and that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Applicant further argues that Schein does not satisfy the limitation of claim 1 in which the digital video recorder has a video output interface separate from the recorder interface and connectable to a display.

In response, see the discussions above. Additionally, it is very clear that the digital video recorder of Schein (see Fig.1) shows a display means (television 32 for displaying images generated by the digital video recorder of Schein. It follows, therefore, that the digital video recorder of Schein inherently includes a video output interface that connects to the display means (i.e., television 12) for outputting data to be displayed on the display means.

Clearly the recorder interface must be different from the video output interface since the recorder interface is used to communicate with the VCR 36 and the video output interface is used to communicate with the display means (television 12).

Applicant's arguments with respect to claim 22 are similar to the arguments with respect to claim 1, and therefore, examiner's response to the arguments with respect to claim 1 are hereby applied to the arguments with respect to claim 22. Furthermore, Schein clearly discloses

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communicating electronic program guide information from a set-top box configured to receive the electronic program guide information to the digital video recorder wherein the microprocessor comprises an electronic program guide subsystem and wherein the EPG information is communicated from the STB to the EPG subsystem of the microprocessor in the digital video recorder (see Fig. 1, processor 16; col.4, line 66 to col.5, line 41 and col.6, lines 51-65). It is pertinent to note that the processor is located within the STB. Therefore, for the processor to process the program guide information, the program guide information must first be received by the STB.

Conclusion

2. Any inquiry concerning this communication or earlier communications from this examiner should be directed to Christopher Onuaku whose telephone number is (703) 308-7555. The examiner can normally be reached on Tuesday to Thursday from 7:30 am to 5:00 pm. The examiner can also be reached on alternate Monday.

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Andrew B. Christensen, can be reached on (703) 308-9644.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

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(703) 872-9314, (for formal communications intended for entry)

and (for informal or draft communications, please label "PROPOSED" or
"DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be

directed to Customer Service whose telephone number is (703) 306-0377.

hoo
COO

6/12/03

THAI TRAN
THAI TRAN
PRIMARY EXAMINER